

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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KEVIN LOYNACHAN and JANICE  
LOYNACHAN, individually and as  
successors-in-interest to  
Decedent CHAD LOYNACHAN,

Plaintiffs,

v.

DARLENE SMILEY, in her  
individual capacity as a law  
enforcement officer for SISKIYOU  
COUNTY SHERIFF'S OFFICE; and  
DOES 1-50, inclusive,

Defendant.

No. 2:22-cv-00841 WBS JDP

ORDER RE: MOTION FOR LEAVE TO  
AMEND COMPLAINT

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Plaintiffs Kevin Loynachan and Janice Loynachan move  
for leave to amend the operative complaint. A party seeking  
amendment must show that the amendment is proper under Rule 15,  
see Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 608 (9th  
Cir. 1992) (citations omitted), under which leave to amend should  
be given "freely . . . when justice so requires," Fed. R. Civ. P.


1 15(a)(2). Leave should be denied only if amendment (1) would  
2 cause prejudice to the opposing party, (2) is sought in bad  
3 faith, (3) would create undue delay, or (4) is futile. Chudacoff  
4 v. Univ. Med. Ctr. of S. Nev., 649 F.3d 1143, 1152 (9th Cir.  
5 2011) (citation omitted). "[I]f a court finds that good cause  
6 exists, it should then deny a motion for leave to amend only if  
7 such amendment would be futile." J & J Sports Prods., Inc. v.  
8 Maravilla, 2:12-cv-2899 WBS EFB, 2013 WL 4780764, at \*1 (E.D.  
9 Cal. Sept. 5, 2013).

10 Plaintiffs seek leave to amend in order to add a claim  
11 for failure to provide post-arrest care under the Fourth  
12 Amendment. (Mot. at 2-3 (Docket No. 24).) They do so on the  
13 ground that they only recently learned that the defendant may  
14 have failed to provide reasonable post-arrest care to decedent  
15 Chad Loynachan after shooting him. (Id.)

16 Defendant has not filed an opposition to the motion,  
17 and the deadline to do so has passed. See L.R. 230(c). In light  
18 of defendant's non-opposition, and good cause appearing,  
19 plaintiffs' motion will be granted. See Johnson, 975 F.2d at  
20 609; J & J Sports Prods., 2013 WL 4780764, at \*1.

21 IT IS THEREFORE ORDERED that plaintiffs' motion for  
22 leave to file an amended complaint (Docket No. 24) be, and hereby  
23 is, GRANTED. Plaintiffs are directed to file their amended  
24 complaint within ten days of the issuance of this Order. The  
25 hearing on plaintiffs' motion set for October 16, 2023 is hereby  
26 VACATED.

27 Dated: September 19, 2023

  
WILLIAM B. SHUBB  
UNITED STATES DISTRICT JUDGE